

REMARKS/ARGUMENTS

Applicant has reviewed and considered the drawing objections under 37 CFR 1.83(a) and has canceled original claims 5 and 11 and has rewritten these claims into new claims 17 and 19, respectively, so as to reflect every feature of the invention as shown in the drawings.

Applicant has also reviewed and considered the rejection of claims 5, 6 and 11 under 35 U.S.C. 112 and refers to page 5, lines 17-19 of the original specification wherein “[a]lthough the present invention is described and shown as a holder having a frayed end and a corked end, the invention could also include having a holder that has two frayed ends or two corked ends.” Thus, claims 5 and 6 did contain subject matter which was described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Nonetheless, Applicant has canceled original claims 5, 6 and 11 and has written new claims.

Applicant has also reviewed and considered the rejection of claims 1-13 under 35 U.S.C. 102(b) as being anticipated by the Morgan Great Britain patent and has rewritten independent claim 12 and added new independent claim 14, which is a modification to original independent claim 1, to highlight the structural difference therebetween, namely, Applicant’s invention having windows or holes. Although it is true the Morgan patent discloses a hollow cylindrically shape holder (14), the Morgan patent does not teach the holder having at least one window as disclosed in Applicant’s invention. Rather, the Morgan patent discloses “slots or incisions” (see line 47 referring to 3) or “chamfered edges” (see line 54 referring to 6). These slots, incisions or chamfered edges are more similar in structure to Applicant’s slots (4) rather than Applicant’s window (5). As a window is commonly known as being an opening surrounded by sides while a slot is commonly known as being an opening having an open side, it is apparent that the Morgan patent discloses slots, incisions or chamfered edges rather than a window.

In addition, the Morgan patent does not disclose a tube having holes as depicted in

Applicant's invention. The holes (6) in Applicant's invention are of importance as they are one object in which to retain fish hooks (8) in the holder (1). Rather, the Morgan invention solely relies on the slots or incisions (3) or the chamfered edges (6) in order to retain the hooks.

Furthermore, although Applicant has rewritten claim 5, the Morgan patent does not disclose a tube having two frayed ends. Rather, the Morgan patent discloses one end having a frayed end (6) and the opposite end of the tube having a permanent magnetic field created by the inclusion of a magnet or magnets (see lines 59-61). Thus, although irregular surfaces are presented on the other lower end of Morgan's tube (1), these irregular surfaces is representative of an annular magnet (see line 68 referring to 8). Thus, not only is Applicant's invention not anticipated by the Morgan patent, but Applicant's method of use of his present invention as described in method claims 12 and 13 is not anticipated as well.

Applicant has also reviewed and considered the rejection of claims 1-10, 12 and 13 under 35 U.S.C. 102(b) as being anticipated by the Perlman patent and has rewritten independent claim 12 and added new independent claim 14, which is a modification to original independent claim 1, to highlight the structural difference therebetween, namely, Applicant's invention having holes and windows. Similar to the above arguments set forth regarding Morgan, the Perlman invention does not teach a holder having at least one window or at least one hole. Rather, Perlman discloses the use of longitudinal slots (20) or longitudinal slits (21) (see lines 57-59 of column 2 and Fig. 1) to retain fish hooks, more similar in structure to Applicant's slots (4) than Applicant's window (5) or hole (6). Thus, not only is Applicant's invention not anticipated by the Perlman patent, but Applicant's method of use of his present invention as described in method claims 12 and 13 is not anticipated as well.

Furthermore, although Applicant has rewritten claim 5, the Perlman patent does not disclose a tube having two frayed ends. Rather, the Perlman patent discloses "a hollow tube 17 having a longitudinally extending external cylindrical surface 18 and a

central cavity 19 opening onto the surface 18 at a diagonally opposite longitudinal slots 20 located at one end of the tube 17. The other end of the tube 17 has a plurality of longitudinal slits 21..." (see column 2, lines 53-59). Thus, although one end of the Perlman tube has frayed ends (via longitudinal slits 21 and teeth 22), the other end of the tube is not frayed.

Applicant has also reviewed and considered the rejection of claims 1, 5, 6, 9, 12 and 13 under 35 U.S.C. 102(b) as being anticipated by the Woodhead patent and has rewritten independent claim 12 and added new independent claim 14, which is a modification to original independent claim 1, to highlight the structural difference therebetween, namely, Applicant's invention having holes. Although it is true the Woodhead patent discloses a hollow cylindrically shape holder (1) with at least one window (7) wherein a first end of the holder is frayed (48) and a cap (26) may be used, the Woodhead patent does not teach the holder having at least one hole as disclosed in Applicant's invention. Rather, the Woodhead patent discloses "openings" (see column 2, lines 53-56 referring to 7), "fish-hook receiving slots" (see column 3, lines 15-21 referring to 13) and "fish-hook receiving slots" (see column 4, line 43 referring to 48). With regards the openings in Woodhead's invention, the openings are similar to Applicant's windows (5). With regards to Woodhead's fish-hook receiving slots, these slots (13 and 48) are similar in structure to the slots (4) on the frayed end (2) of Applicant's invention. Thus, although it is true that the Woodhead invention discloses a cylindrically shaped holder having windows and a frayed end, the Woodhead invention does not disclose the presence of holes as does Applicant's invention. The holes are of importance as they allow for the securing of smaller sized fish hooks which would become easily dislodged if retained in the slots of the frayed end. Because the Woodhead invention does not teach such a structure, not only is Applicant's invention not anticipated by the Woodhead patent, but Applicant's method of use of his present invention as described in method claims 12 and 13 is not anticipated as well.

Furthermore, although Applicant has rewritten claim 5, the Woodhead patent does

not disclose a tube having two frayed ends. Rather, the Woodhead patent discloses a safety fish-hook holder 1 having a housing member 2 that is a hollow cylinder having near the upper end of the holder “a plurality of vertical fish-hook receiving slots” (see column 3, lines 17-18) and having near the lower end of the holder “a rectangular flange 8 which prevents [the] fish-hook holder 1 from rolling” (see column 3, lines 2-5). Thus, although one end of the Woodhead tube has frayed ends, the other end of the tube does not.

Applicant has also reviewed and considered the rejection of claims 1 and 3-11 under 35 U.S.C. 102(b) as being anticipated by the Crosby patent and has added new independent claim 14, which is a modification to original independent claim 1 (the claim upon which claims 3-11 are dependent thereupon), to highlight the structural difference therebetween, namely, Applicant’s invention having holes. While it is true the Crosby patent discloses a hollow cylindrically shaped holder 70 wherein both ends may have caps (40 and 98), the Crosby patent does not disclose the hollow cylindrically shaped holder having at least one window, having an end that is frayed, having an end that is corked nor having at least one hole.

With regards to the at least one window aspect of the claim rejection, the Crosby patent discloses a holder having longitudinal V-notches (94) (see column 6, line 12). Although number 86 of the Crosby patent is not identified in the specification, as it appears identical in appearance to number 94, it is inferred that number 86 is also identifying longitudinal V-notches. As these are notches, rather than windows (5) as in Applicant’s invention, Applicant’s invention is not anticipated by Crosby with regards to the windows.

With regards to the first end being frayed aspect of the claim rejection, the Crosby patent does not disclose a holder having frayed ends. Rather, as stated above, the Crosby patent discloses V-notches (86 or 94), which are clearly different in structural appearance and functionality than Applicant’s frayed ends (2).

With regards to the second end being corked, while it is true the Crosby patent

discloses a closure (40), the closure is “snapidly removedly engagable with the lip (22) of the tubular envelope (20) such that when engaged, the mouth (26) of the tubular envelope (20) is substantially blocked whereby a fishing lure (150) placed inside the envelope will be retained therein” (see column 5, lines 55-61). The closure also has a planar top (48). Applicant’s invention, on the other hand, has a corked end (3) whereby a user may insert hooks (8) into the corked end for the retention of the hooks (8). Thus, the Crosby patent does not disclose a corked end similar to Applicant’s invention.

Finally, the Crosby patent does not disclose at least one hole (6) on the holder as does Applicant’s invention. Rather, the Crosby patent discloses V-notches (86 or 94), a second mouth (84) and a second lip (96). The V-notches are not holes as discussed above in the Perlman *et al.* argument. The mouth (84) and the lip (96) are also not holes as they are simply the open ends of the hollow cylinder. Applicant’s holes are located on the side of the hollow holder (1) and are distinct from the open ends of the holder.

Applicant has also reviewed and considered the rejection of claims 1 and 3-11 under 35 U.S.C. 102(b) as being anticipated by the Alotta patent and has added new independent claim 14, which is a modification to original independent claim 1 (the claim upon which claims 3-11 are dependent thereupon), to highlight the structural difference therebetween, namely, Applicant’s invention having windows and holes. Similar to the above arguments set forth regarding the Morgan and Perlman inventions, the Alotta invention does not teach a holder having at least one window or at least one hole. Rather, Alotta discloses the use of keeper notches or kerfs (34) (see lines 49-52 of column 2) to retain fish hooks, more similar in structure to Applicant’s slots (4) than Applicant’s window (5) or hole (6). Moreover, the Alotta patent discloses arms (74) (see line 35 of column 3) and a plug (18) (see column 2, line 40), which are in no way similar in structure to Applicant’s holes (compare Alotta Fig. 2 to Applicant’s Fig. 1). Thus, Applicant’s invention not anticipated by the Alotta patent.

Moreover, the Alotta patent does not discloses the first and second ends being frayed as taught in Applicant’s specification. Rather, the Alotta patent teaches one end

being frayed and the “irregular structure at the other end” being an elastic band (58) (see column 3, line 12) and an upper end part of the sleeve (50) (see column 3, line 5).

Applicant has also reviewed and considered the rejection of claims 1-11 under 35 U.S.C. 102(b) as being anticipated by the Bliven patent and has added new independent claim 14, which is a modification to original independent claim 1 (the claim upon which claims 2-11 are dependent thereupon), to highlight the structural difference therebetween, namely, Applicant’s invention having windows and holes. Similar to the above arguments set forth regarding the Morgan, Perlman and Alotta inventions, the Bliven invention does not teach a holder having at least one window or at least one hole. Rather, Bliven discloses the use of U-shaped grooves (60) (see column 3, line 40-41) to retain fish hooks, more similar in structure to Applicant’s slots (4) than Applicant’s window (5) or hole (6). Thus, Applicant’s invention not anticipated by the Bliven patent.

With Applicant has also reviewed and considered the rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by the Ashbaugh patent and has added new independent claim 14, which is a modification to original independent claim 1 and the claim upon which claim 2 is dependent thereupon, to highlight the structural difference therebetween, namely, Applicant’s invention having at least one window. Similar to the above arguments set forth with regards to the structure of a window, the Ashbaugh patent clearly discloses the holder having “hook retaining holes 14” (see column 5, line 14). Thus, although the Bliven patent discloses a carrier (10) having holes (14), the carrier does not include windows as does Applicant’s invention. Thus, Applicant’s invention not anticipated by the Bliven patent.

Finally, with regards to the claim rejections under 35 U.S.C. 103(a) for obviousness based on the Woodhead, Crosby, Alotta, Perlman *et al.* and Bliven in view of Woodhead, as Applicant has rewritten original method claims 12 and 13 and has included new claims 14-22 to protect Applicant’s apparatus, namely, a fishing leader holder comprising a hollow cylindrically-shaped holder having at least two ends; said holder having at least one hole; and said holder having at least one window. Thus,

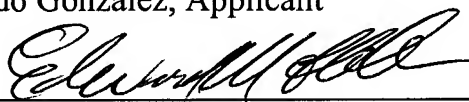
although it would have been obvious to one having ordinary skilled in the art at the time the invention was made to make the device as originally claimed out of PVC and it would have been obvious to one having ordinary skilled in the art at the time the invention was made to employ a cap for use on the device as originally claimed, as Applicant has added new independent claim 14. As this new independent claim is novel and nonobvious for the reasons set forth above, it would not have been obvious to make the invention claimed in claim 14 out of PVC or to employ a cap thereon.

In summary, none of the prior art, alone or in combination, disclose a fishing leader holder having both at least one hole and window to enable a fishing leader to be held securely and protectively as does Applicant's invention as now claimed.

In view of the above amendments and remarks, Applicant believes the examiner will now find this patent application in a position for allowance and its expeditious passage to same is requested.

Should the examiner disagree or have any questions, comments or suggestions that will render this application allowable, a call to the undersigned attorney of record is invited.

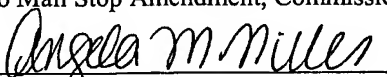
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CERTIFICATE OF MAILING by "EXPRESS MAIL" UNDER 37 CFR 1.10

I HEREBY CERTIFY that the above Petition for Extension of Time is being deposited with the United States Postal Service by "Express Mail Post Office to Addressee" service, U.S. Express Mail No. EV 589509507 US, on the 9th day of November, 2004, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Legal Assistant